

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI, EX REL., MISSOURI ENERGY DEVELOPMENT
ASSOCIATION,
RESPONDENT**

**STATE OF MISSOURI, EX REL., MISSOURI INDUSTRIAL ENERGY CONSUMERS,
RESPONDENT**

**STATE OF MISSOURI, EX REL., THE MEPIRE DISTRICT ELECTRIC COMPANY,
RESPONDENT**

**STATE OF MISSOURI, EX REL., UNION ELECTRIC COMPANY d/b/a AMERENUE,
RESPONDENT**

vs.

**PUBLIC SERVICE COMMISSION,
APPELLANT**

DOCKET NUMBER WD74896

DATE: NOVEMBER 20, 2012

Appeal from:

The Circuit Court of Cole County, Missouri
The Honorable Daniel R. Green, Judge

Appellate Judges:

Division Three: Alok Ahuja, P.J., Victor C. Howard and Cynthia L. Martin, JJ.

Attorneys:

Edward F. Downey, for Respondent Missouri Industrial Energy Consumers

Paul A. Boudreau, for Respondent Missouri Energy Development Association

Jennifer L. Heintz, for Appellant Missouri Public Service Commission

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI, EX REL., MISSOURI ENERGY DEVELOPMENT
ASSOCIATION, RESPONDENT
STATE OF MISSOURI, EX REL., MISSOURI INDUSTRIAL ENERGY CONSUMERS,
RESPONDENT
STATE OF MISSOURI, EX REL., THE EMPIRE DISTRICT ELECTRIC COMPANY,
RESPONDENT
STATE OF MISSOURI, EX REL., UNION ELECTRIC COMPANY, d/b/a
AMERENUE, RESPONDENT**

v.

PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI, APPELLANT

WD74896

Cole County, Missouri

Before Division Three: Alok Ahuja, P.J., Victor C. Howard and Cynthia L. Martin, JJ.

The Missouri Public Service Commission (PSC) appeals the judgment of the circuit court reversing its revised final order of rulemaking adopting 4 CSR 240-20.100, which implemented the Renewable Energy Standard (RES) in Missouri. The parties aggrieved by the PSC's order claim that 4 CSR 240-20.100 is unlawful and unreasonable because it directly conflicts with section 393.1030 regarding the retail rate impact of the RES and the eligibility of renewable energy credits (RECs) for portfolio compliance. The circuit court's judgment is reversed, and the PSC's revised final order of rulemaking is affirmed.

REVERSED.

Where 4 CSR 240-20.100(5), the retail rate impact provision of the rule, is consistent with the plain language and the intent of section 393.1030 and is reasonable in light of the statute and the comments and evidence presented to the PSC, the revised final order of rulemaking is a reasonable exercise of the rulemaking authority granted to the PSC by the statute and its broad discretion in interpreting the statute.

Where the provisions regarding geographic sourcing of RECs were withdrawn by the PSC, were not published, and are not effective or enforceable against electric utilities, the points challenging them are moot and are dismissed.

Opinion by: Victor C. Howard, Judge

Date: November 20, 2012

This summary is <i>UNOFFICIAL</i> and should not be quoted or cited.
